

REGULAR MEETING - CITY COUNCIL - CITY OF NEWTON

FEBRUARY 18, 2004

The City Council of the City of Newton held a regular meeting at 7:30 PM on Wednesday, February 18, 2004 at City Hall with the following present: Mayor Robert Mullinax, Council Members Wayne Dellinger, Al Gaither, Tom Rowe, Anne Stedman, City Manager Edward Burchins, City Attorney Larry Pitts, Assistant City Manager Glenn Pattishall and City Clerk Rita Williams. Council Members Tom Dixon and Roy Johnson were absent from the meeting.

- ITEM 1 - CALL TO ORDER.
- ITEM 2 - OPENING.

Mayor Mullinax called the meeting to order, welcomed citizens in the audience and led the Pledge of Allegiance.

- ITEM 3 - APPROVAL OF MINUTES OF THE JANUARY 29 AND JANUARY 30, 2004 COUNCIL PLANNING WORK SESSION, FEBRUARY 3, 2004 REGULAR MEETING AND JANUARY 29, 2004 AND FEBRUARY 3, 2004 CLOSED SESSIONS.

A motion was made by Council Member Gaither, seconded by Council Member Rowe, and unanimously adopted that the minutes of the January 29 and January 30, 2004 Council Planning Work Session, February 3, 2004 regular meeting and January 29, 2004 and February 3, 2004 Closed Sessions be approved as submitted.

- ITEM 4 - CONSIDERATION OF APPROVAL OF CONSENT AGENDA ITEMS.

Mayor Mullinax stated that Item B listed under the Consent Agenda (Consideration of acceptance of offer for purchase of generators) was being moved to New Business for discussion.

A motion was made by Council Member Dellinger, seconded by Council Member Rowe, and unanimously adopted that ITEM A on the Consent Agenda be approved:

- A. Consideration of budget amendment to place funds received from a Federal Bullet Proof Vest Grant into the Police Department's operation budget.
(adopted)

ORDINANCE #2004.12 ATTACHED

- ITEM 5 - PUBLIC HEARINGS:

- A. Zoning Ordinance Text Amendment #2003-04 - water supply watershed regulations.

Mayor Mullinax recessed the Council meeting and called to order a public hearing, as previously scheduled and advertised, to consider Zoning Ordinance Text Amendment #2003-04 - water supply watershed regulations.

Assistant City Manager Pattishall reported that the state regulates watersheds for more than 200 surface water supplies. Each of the watersheds are classified based on development activities and the potential impact on the water supply. Newton has two watersheds. When the City adopted its watershed protection ordinance in 1993, the only watershed in its jurisdiction was the Lake Norman watershed which affects a small portion of the City at its northeast extent. In 1995, the City annexed the raw water intake, which is located on the Jacob Fork River and is located in the Jacob Fork Watershed. Although, it is the only property within the city's jurisdiction in the Jacob Fork watershed, the state requires the City to amend its ordinance to regulate development within the Jacob Fork watershed. This will allow the City to regulate additional property located in the Jacob Fork watershed as required if and when annexation occurs. The area outside Newton's jurisdiction is currently regulated by the County.

After review of the required watershed regulations. Mr. Pattishall stated the Planning Commission voted unanimously at its January 28, 2004 meeting that the ordinance as presented be adopted.

Mayor Mullinax asked if there was anyone in the audience who wanted to speak regarding the proposed text amendment and no one appeared to speak. He closed the public hearing and called the Council meeting back into session.

A motion was made by Council Member Gaither, seconded by Council Member Rowe, unanimously adopting Zoning Ordinance Text Amendment #2003-04 for watershed protection overlay districts.

ORDINANCE #2004.13 ATTACHED

B. Second hearing on CDBG application - Moretz, Inc.

Mayor Mullinax recessed the Council meeting and called to order a public hearing, as previously scheduled and advertised, to hold a second hearing on a CDBG application.

City Manager Burchins reported that the hearing was being held to receive public input for the development of a CDBG application for the coming year. Mr. Burchins introduced Ms. Sherry Long of Western Piedmont Council of Governments who coordinated the application.

Assistant City Manager Pattishall reported that the City held its first public hearing on October 22, 2003 to receive citizen input for the development of a CDBG grant application for 2004. At that time, he said the Council was informed that the staff was working with a developer and Moretz, Inc. to provide for the occupancy of a portion of the existing Broyhill Furniture building on N. College Avenue as well as the potential to open the road between Keisler Road and North College Avenue. The road would facilitate development of an industrial park per an approved planned development in 2002 by Paul Frankel.

Mr. Pattishall stated the CDBG grant will be funded with 75% CDBG funds (\$450,000) and 25% local commitment (\$150,000) totaling \$600,000. \$510,000 will be used for road improvements, \$60,000 for structural demolition to make way for the road and \$30,000 for administration. Mr. Pattishall stated Moretz is considering purchase of a 25 acre tract from Rich Piselli who bought the property from Broyhill last year and has agreed to participate in this project with the City. Mr. Piselli is proposing to pay half the local commitment (\$75,000) by repaying the City over five years through tax revenues generated from improvements he would make to the remaining 50 acres which he is anticipating purchasing from Broyhill.

Ms. Long reviewed action the Council must take on CDBG policies to reinstate Newton into the program for applying for CDBG grants.

Mayor Mullinax asked if there was anyone in the audience who wanted to speak regarding the CDBG application and no one appeared to speak. He closed the public hearing and called the Council meeting back into session.

After discussion, a motion was made by Council Member Rowe, seconded by Council Member Stedman, and unanimously adopted to approve the Authorizing Resolution and Certification, the Legally Binding Commitment Agreement between the City of Newton and Moretz, Inc., and the proposal of Mr. Piselli.

RESOLUTION #2-2004 CITY OF NEWTON AUTHORIZING RESOLUTION AND CERTIFICATION

- WHEREAS, various State and Federal agencies provide for funds to municipalities to meet the needs of local governments in financing the cost of Economic Development; and
- WHEREAS, the Department of Commerce will be the State administering agency for the Community Development Block Grant Program; and
- WHEREAS, the Community Development Block Grant Program has Economic Development funds available to local governments to maintain or create new jobs for low and moderate income people; and
- WHEREAS, the City Council of Newton has solicited and received citizen input regarding the Economic Development project as described in the formal CDBG application.

NOW, THEREFORE, BE IT RESOLVED BY THE NEWTON CITY COUNCIL:

That the City of Newton will substantially comply with all Federal, State and local laws, rules, regulations and ordinances pertaining to the project and to Federal and State grants pertaining thereto.

That, Ed Burchins, City Manager, and successors so titled is hereby authorized to develop, execute and file an application on behalf of the City of Newton to appropriate Federal and State agencies to secure funds for the Economic Development Project.

That, Ed Burchins, City Manager, and successors so titled is hereby authorized and directed to furnish such information as the appropriate governmental agencies may request in connection with such applications for the project; to make the assurances and certifications as contained above; and to execute such other documents as may be required in connection with the construction of the project.

That this resolution shall take effect immediately upon its adoption.

Robert A. Mullinax, Mayor

Attest:

Rita K. Williams, City Clerk

A motion was made by Council Member Gaither, seconded by Council Member Dellinger, unanimously adopting the following:

1. Local Economic Benefit for low and very low income persons plan 1997 CDBG Program.
2. Equal Employment and Procurement Plan.
3. Anti-Displacement and Relocation Plan.
4. Disclosure Report for Federally Assisted Projects Small Cities Community Development Block Grant Program.

ITEM 6 - OLD BUSINESS:

- A. Consideration of piggy-back bid received for fire engine.

Fire Chief Kevin Yoder reported that at the last Council meeting, the staff was authorized to advertise the City's intent to undertake a piggy-back bid process to purchase a new fire truck to replace a 1981 fire engine. The advertising and bid process has been completed and the bidder who was awarded the contract in March of 2003 will honor last year's bid of \$341,682.58 until February 20, 2004. This will save at least \$17,000 in cost increases which will become effective February 20, 2004.

A motion was made by Council Member Rowe, seconded by Council Member Stedman, and unanimously adopted to accept the bid and authorize a budget amendment for the purchase of the fire engine.

ORDINANCE #2004.14 ATTACHED

ITEM 7 - NEW BUSINESS:

- A. Wastewater System Annual Performance Report.

Director of Public Works and Utilities Marty Wilson reported that the NC Clean Water Act of 1999 requires that the City make an annual report summarizing the actions of the wastewater treatment plant. Mr. Wilson stated the plant currently operates well below its permitted flow rate, averaging 3.7 MGD for 2003. In 2003, the City effectively treated one billion, three hundred fifty three million (1,353,000,000) gallons of wastewater. The City experienced ten overflows reaching surface water with 0.08% overflow into surface waters of the total amount treated. No overflow resulted in a fish kill or other negative environmental impact.

Mr. Wilson stated the report will be published in the City's newsletter and will be available to the public at City Hall.

- B. Consideration of request from DNDA to amend the City Ordinance to allow them to sell alcoholic beverages at NewtonFest.

Mr. Stan Winstead, President of the Downtown Newton Development Association, appeared before the Council and stated they are planning NewtonFest 2004 to be held on Saturday, April 24th. He said this year, they are striving to make the festival a more cultural event to help attract more attendees. Their plans are to have an antique fair, arts group participation, vintage auto display and more vendors. He reviewed a drawing of the downtown area where events would be held.

Mr. Winstead stated the DNDA was requesting the Council consider amending its ordinance to allow beer and wine sales, much like other cities do during their festivals and events. He said their plan was to use the parking lot at the corner of Main Street and 2nd Street which would be cordoned off and planned specifically for this purpose. In checking with other cities, they were told that the City Council of these cities is required to give permits on a case-by-case basis for this special use and the event organizers are required to obtain an alcohol permit (which takes six weeks to process). He said DNDA is prepared to follow these steps and provide liability coverage on their event insurance policy for this opportunity.

The Council discussed the request at length. It was brought up that there could be a possibility that another person could request to sell beer and wine during the festival. City Attorney Pitts suggested that if permitted, the permit be issued to the festival organizer on a case-by-case basis in a controlled area.

After further discussion, there was Council consensus to authorize the City Attorney to draft an ordinance which would allow the sale of alcoholic beverages during festivals and events for consideration by the Council at the next meeting to be held March 2nd.

Consideration of acceptance of offer for purchase of generators.

City Manager Burchins reported that the City has two surplus generators the City would like to sell and the staff has taken bids for their sale.

Assistant City Pattishall reported that the staff had recommended the bid of Carolina Engine (Cat) be accepted for purchase of the surplus generators. However, since that time, an offer has been received from ElectriCities to purchase them if the switch gear can be reconfigured for their use. He said the staff was recommending that the offer of Carolina Engine be accepted as quoted provided the configuration of the switch gear exceeds \$100,000 and that the needed budget ordinance amendment be adopted.

A motion was made by Council Member Gaither, seconded by Council Member Stedman, and unanimously adopted to accept the bid of Carolina Engine provided the configuration of the switch gear exceeds \$100,000 and that a budget ordinance amendment be adopted for the sale.

ORDINANCE #2004.15 ATTACHED

Mayor Mullinax reported that he has received a request for a Council Workshop to be held to discuss water and sewer availability. He suggested the Council meet at 6:00 P.M. on Tuesday, March 2, 2004 prior to the regular meeting and there was Council consensus to do so.

Mayor Mullinax reported that he has had several local industries request that the Council come by to visit them and he said he would select several dates for that purpose. He encouraged Council members to try to attend these industry visits when the dates are selected.

ITEM 8 - CITY MANAGER'S REPORT.

A. Year-end Leaf Season Collection report.

Director of Public Works and Utilities Marty Wilson gave a year-end leaf season collection report. He said the staff made some modifications to their collection methods this year which was very successful. He said they received hardly any complaints.

Mr. Wilson recognized Mark Herman, Street Supervisor, and Jerry Isenhour, truck driver, for a job well done this season and thanked the Street Crew for their efforts.

Council Member Stedman thanked them for taking care of the leaves during the luminary project and Mayor Mullinax thanked them for a job well done.

City Manager Burchins reported that the staff received notice from ElectriCities that it has retained The Sanford Holshouser Business Development Group LLC to develop strategic economic development plans for cities in the Western Agency and Newton is included. The project will be completed at no cost to the City. Sanford Holshouser completed studies for five cities in 2003. The success of those projects led ElectriCities to expand the studies to the remaining cities in the Western Agency for 2004. He said this is a great opportunity to develop some strategic plans that will enhance the community.

Mr. Burchins stated that the City of Newton has two fire trucks that are no longer being used by the City. Last year, he said he talked with the Council about participating through the U. S. Agency for International Development to help the City of Granada, Nicaragua by providing them with fire fighting equipment. He asked Fire Chief Yoder to explain the condition of the surplus trucks.

Fire Chief Yoder said the 1964 American LaFrance ladder truck was declared surplus and no one offered a bid on it. The 1969 pumper has not been used in more than a year and is stored at the North Newton Fire Department. He said the Fire Department has no need for the two trucks.

Mr. Burchins stated that Granada is in dire need of fire trucks and has an extreme need for an aerial truck. Granada is located in Central America's poorest nation and they are presently using old Russian fire equipment for fire fighting. Newton will be helping Granada by selling them these trucks. He said they would be sent by a military transport plane from Charleston, South Carolina, if approved by the Council. He asked the Council to consider declaring the 1969 pumper as surplus and to authorize the trucks sold by private negotiation and sale.

A motion was made by Council Member Gaither, seconded by Council Member Rowe, and unanimously adopted to declare the 1969 pumper as surplus and that the two trucks be offered for sale by private negotiation and sale.

ITEM 9 - QUESTIONS FROM MAYOR AND COUNCIL. NONE

ITEM 10 - CLOSED SESSION TO DISCUSS LOCATION/EXPANSION OF BUSINESS OR INDUSTRY - G. S. 143-318.11(A)4
AND ATTORNEY CLIENT PRIVILEGE - G.S. 143.11(a)3.

Mayor Mullinax stated the Council needed to have a Closed Session to discuss the items listed above.

A motion was made by Council Member Rowe, seconded by Council Member Dellinger, and unanimously adopted that the Council go into Closed Session as requested.

After the Closed Session, Mayor Mullinax called the Council meeting back into session and stated no action was to be taken at this time on the matters discussed.

There being no further business, the meeting was recessed until 6:00 PM on Tuesday, March 2, 2004.

Respectfully submitted,

Robert A. Mullinax, Mayor

Rita K. Williams, City Clerk